

## REMARKS

This paper is filed in response to the Office Action mailed on January 14, 2004. Claims 353-373 and 422-483 are pending. Claims 353-373 and 422-483 have been examined and stand rejected. Claims 484 and 485 are new.

Consideration of Claims 353-373 and 422-485 is respectfully requested.

### The Rejection of Claims 422-423, 425-426, 461, 465, and 481 Under 35 U.S.C. § 102(a)

Claims 422-423, 425-426, 461, 465 and 481 are rejected under 35 U.S.C. § 102(a) as being anticipated by *The Wiley Encyclopedia of Packaging Technology*, 2d ed. (the *Wiley* reference).

As now amended, Claim 422 recites "transferring pieces of meat to individual packages; transferring the individual packages to a separate barrier container substantially impermeable to oxygen; introducing a blend of gases to the barrier container, wherein said gases include carbon monoxide; and sealing the barrier container to prevent the escape of gases therefrom."

For a reference to be anticipatory, the reference must exactly describe the claimed invention. "Every element and limitation of the claimed invention must be found in a single prior art reference, *arranged as in the claim.*" *Brown v. 3M*, 60 U.S.P.Q.2d 1375, 1376 (Fed. Cir. 2001). "One seeking to invalidate a patent may not demonstrate invalidity of a claim simply by citing isolated steps in prior art that are not combined in the same fashion as the patent." *Chemical Separation Technology, Inc. v. United States*, 63 U.S.P.Q.2d 1114, 1115 (Fed. Cl. 2002); *see also, Crowell v. Baker Oil Tools, Inc.*, 68 U.S.P.Q. 385 (9th Cir. 1946). ("It is not enough that one finds in prior art similar steps here and there, since inventive genius consists in picking out and combining all steps or inventing new ones in a new combination.")

The Examiner states that the *Wiley* reference "teaches a method of packaging meat by obtaining meat primals, transferring them to foam packaging trays, transferring to barrier film

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containers, introducing gases including carbon monoxide, sealing the containers, reducing bacteria, removing oxygen, and storing the containers" (*Wiley* pages 651-654).

In the event that any of the individual steps are found in the *Wiley* reference, applicant respectfully submits that the Examiner will not be able find the claimed arrangement of steps, namely, the steps of transferring meat pieces to individual packaging, followed by transferring the individual packages to a barrier container substantially impermeable to oxygen, followed by introducing a blend of gases to the barrier container. The Examiner relies on four pages of the *Wiley* reference, without specifically stating where the entire arrangement of steps is described. Applicant cannot determine with any degree of certainty where each of the steps arranged as in the claims is found in the reference. Applicant has to assume that the Examiner is referring to the first four paragraphs of the left column of page 654, by the Examiner's explicit reference to "primals."

In this passage, the *Wiley* reference describes the vacuum packaging of meats in barrier films. The *Wiley* reference describes that the vacuum packaged meats are unpacked when they reach the store and placed in polystyrene foam trays, and then overwrapped with oxygen permeable films. In direct contrast to the *Wiley* reference, Claim 422 recites that pieces of meat are placed into individual packages, which are then placed into the barrier containers substantially impermeable to oxygen. Thereafter, the barrier containers are exposed to a blend of gases containing carbon monoxide, and thereafter the barrier containers are sealed.

While there may be other reasons why the *Wiley Encyclopedia* is not anticipatory, for at least the reasons discussed above, the *Wiley Encyclopedia* is not anticipatory to Claim 422. Further, because Claims 423, 425-426, 461, 465 and 481 depend directly or indirectly from Claim 422, these claims are also not anticipated.

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Applicant further submits that the *Wiley Encyclopedia* does not teach, describe or remotely suggest or motivate one to make the invention defined by Claims 422-423, 425-426, 461, 465 and 481. Accordingly, applicant respectfully requests the withdrawal of the rejection of Claims 422-423, 425-426, 461, 465 and 481.

The Rejection of Claims 430-432, 438-439, 457-460, 469-470 and 482-483 Under 35 U.S.C. § 103(a)

Claims 430-432, 438-439, 457-460, 469-470 and 482-483 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Groves et al. (U.S. Patent No. 4,171,164) in view of Inglis et al. (U.S. Patent No. 6,224,930).

Newly amended Claim 430 recites that a bacteria-reducing agent, i.e., carbon dioxide, and a predetermined amount of water is added to meat to advantageously replace water that evaporates from the meat during processing, thereby increasing the yield of meat product during processing.

The Examiner states that the Inglis et al. reference teaches a method of treating meat which includes determining the water content and adding the proper amount (Col. 4, line 10). The Examiner's understanding of the Inglis et al. reference's teachings is believed to be incorrect.

There is nothing to suggest or motivate one to add water with carbon dioxide to meat as claimed.

Upon close examination of the Inglis et al. reference, one will come to understand that the Inglis et al. reference teaches against the addition of water with carbon dioxide to meat. The Inglis et al. reference describes the treatment of various perishable foodstuffs with a volatile substance entrained in a carrier gas. The passage of the Inglis et al. reference cited by the Examiner relates to the addition of water in cases where the transference rate for the volatile substance into the foodstuff will be low. The addition of water described by the Inglis et al.

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reference compensates for low water activity ( $A_w$ ) of a foodstuff, which means that the volatile substance will not be easily transferred to the foodstuff. Applicant submits that meat does not have a low water activity ( $A_w$ ) to warrant the addition of water. Inglis et al. describes that:

Lower  $A_w$  foodstuffs may require longer exposure times without the addition of a small quantity of water, generally 1-2% by weight, based on the weight of the material to be treated, onto the surface. This additional water can be applied as a fine mist in the case of relatively impervious products such as peppercorns or by steaming in more difficult applications.

(Col. 3, line 63 to Col. 4, line 12.) What the Inglis et al. reference teaches is that the transference rate of a volatile substance can be increased by applying water to foodstuffs that do not have a high water activity. In cases where the foodstuff has a water activity of 0.95, the Inglis et al. reference teaches that the transference rate is near optimum, and consequently no water needs to be added (Col. 3, line 67 to Col. 4, line 2).

In Table 3, Inglis et al. describes that the water activity of ham is 0.95. Applicant submits that the water activity of meats would be substantially the same or about the same as ham. Therefore, the logical conclusion is that the Inglis et al. reference teaches *against* adding water to the meat with carbon dioxide.

Furthermore, even if water were added to meat, the object of the Inglis et al. reference, in the end, is not to replace water that has evaporated from the meat as claimed, but rather to immediately eliminate the water to reduce acidulation. The Inglis et al. reference describes drying the low water activity foodstuff after treating with water. "If surface wetting is a technical requirement, then mild surface drying post-treatment will promote the volatilization of surface acids thereby reducing acidulation." (Col. 4, lines 13-15.)

Accordingly, for all the reasons described above, applicant respectfully requests withdrawal of the rejection of Claim 430. Because Claims 431 and 432 are dependent from Claim 430, these claims are allowable as well, if not also for the fact that the Groves et al.

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reference does not teach, describe or remotely suggest, either alone or in combination with the Inglis et al. reference, the invention defined by Claims 431 and 432.

Claim 438 has been amended to read as follows.

transferring a first stream of meat to a device capable of measuring fat or water;

transferring a second stream of meat to a device capable of measuring fat or water; and

combining the first and second streams of meat to produce a combined stream of meat that has fat or water content adjusted by adjusting the rate of transfer of the first and the second streams of meat, wherein the first and second streams of meat are in contact with a gas while transferring to said device, wherein said gas has an oxygen content greater than 5 ppm and less than 5%.

Claim 439 has been amended to read as follows:

A method for producing meat, comprising:

transferring a first stream of meat to a device capable of measuring fat or water;

transferring a second stream of meat to a device capable of measuring fat or water; and

combining the first and second streams of meat to produce a combined stream of meat that has fat or water content adjusted by adjusting the rate of transfer of the first and the second streams of meat, wherein combining takes place in the presence of a gas that has an oxygen content greater than 5 ppm and less than 5%.

The Examiner states that:

it would have been obvious to one of ordinary skill in the art to incorporate the carbonic acid and packaging techniques of Inglis et al. into the invention of Groves et al. since both are directed to methods of processing meat, since Groves et al. used raw meat which often included bacteria, since Groves et al. would have required some means to package the blended raw meat, since the carbonic acid of Inglis et al. would have reduced the amount of bacteria without negatively impacting the taste of the meat, and since the packaging of Inglis et al. would have effectively preserved the meat of Groves et al.

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For any claim to be obvious, there must first be a teaching or suggestion in the prior art or in the knowledge that is generally available, to combine or modify references and thus produce the claimed invention. There must be a reasonable expectation of success, and all of the elements in the claimed invention must be described in the prior art references. Applicant submits there is no suggestion or motivation to combine references. To the extent the references can be combined, all the elements are not present in the hypothetical combination.

Claim 438 relates to transferring the first and second streams of meat, wherein the first and second streams of meat are in contact with a gas that has an oxygen content greater than 5 ppm and less than 5%. The act of contacting the streams of meat to a gas with air within the claimed range prior to combining the streams provides advantages not apparent from the references. One such advantage is the absorption of the gas other than air into the meat that can result in the gradual outgassing from the meat and the prevention of absorption of oxygen into the meat in any further downstream processing of the meat. However, residual oxygen is present because a gas depleted of all oxygen is disadvantageous as well, since harmful anaerobic organisms may flourish in environments completely deprived of oxygen.

The Groves et al. reference describes a fat analysis and meat-blending system open to ambient air throughout the entire processing area.

The Inglis et al. reference describes a method that treats a perishable foodstuff with a volatile substance. The method described by the Inglis et al. reference treats meat in an evacuation chamber or flow wrapping equipment. See Col. 2, lines 43-67. There is no teaching or suggestion to treat meat with gas comprising greater than 5 ppm and less than 5% oxygen, prior to combining streams. This is evident from the language of the Inglis et al. reference that describes the method should be performed immediately before packaging and after all processing. Please see Col. 4, lines 25-31. Even if the method of the Inglis et al. reference were

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practiced in combination with the method of the Groves et al. reference, such hypothetical combination would still result in meat that is exposed to the oxygen in air throughout the grinding and blending steps, as practiced by the Groves et al. reference, and such prior exposure of the meat to air would mean that air and oxygen may have already caused detrimental effects that cannot be cured by the after-the-fact methods that are taught in the Inglis et al. reference. Such effects would have been avoided or greatly reduced by practicing the method as defined by Claim 438 that combines streams of meat after the meat has been in contact with a gas having greater than 5 ppm and less than 5% oxygen content.

There is nothing to suggest or motivate one to treat meat with a gas having the claimed range prior to combining two streams of meat. Neither the Groves et al. reference that processes meat open to ambient air nor the Inglis et al. reference that only describes packaging teach, describe or remotely suggest or motivate one to expose meat prior to combining to a gas that has an oxygen content greater than 5 ppm and less than 5%.

Accordingly, for all the reasons discussed above, applicant respectfully requests the withdrawal of the rejection of Claim 438.

As distinguished from Claim 438, Claim 439 combines meat in the presence of a gas that has an oxygen content greater than 5 ppm and less than 5%. For the same reasons that Claim 438 is not obvious, Claim 439 is not obvious, either. Claim 439 like Claim 438 provides the advantages discussed above that are not apparent from either of the references. Such advantages would not be realized by any hypothetical combination of the references.

Accordingly, applicant respectfully requests the withdrawal of the rejection of Claim 439. Because Claims 457-460, 469, 470, 482 and 483 are dependent directly or indirectly from Claim 438 or 439, these claims are allowable, if not also for the fact that the Groves et al.

reference does not describe, teach, or remotely suggest, either alone or in combination with Inglis et al., the invention defined by Claims 457-460, 469, 470, 482 and 483.

The Rejection of Claims 353-356, 358-360, 366-373, 427-428, 433-435, 437, 440-444, 447-452, 455-456, 462, 464, 466, 468, 471-475, 477 and 479-480 Under 35 U.S.C. § 103(a)

Claims 353-356, 358-360, 366-373, 427-428, 433-435, 437, 440-444, 447-452, 455-456, 462, 464, 466, 468, 471-475, 477 and 479-480 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Groves et al., in view of Inglis et al., and further in view of Goldsmith (U.S. Patent No. 5,306,466).

As now amended, Claim 353 recites "transferring a controlled amount of the first and second streams to a vessel having a gas, wherein the majority of the gas comprises carbon dioxide; and blending the first and second streams in the vessel to provide a blended stream of proportional fat content."

In direct contrast to Claim 353, the Groves et al. reference blends meat in air. There is no teaching or suggestion either in the Groves et al. or in the Inglis et al. reference to blend meat in a gas wherein the majority of the gas comprises carbon dioxide.

Claim 353 also recites that after blending the first and second streams, the blended stream is transferred into a barrier package substantially impermeable to oxygen from which the oxygen is removed and the package is thereafter sealed.

At most, the Inglis et al. reference describes treating meat in an evacuation chamber or in flow wrapping equipment utilizing a conveyor and/or exposure in a flow wrapping treatment tunnel. Any hypothetical combination of the Groves et al. reference with the Inglis et al. reference would result in a single treatment of meat, not multiple treatments, as in the blending vessel and later in the barrier package, as defined by Claim 353. There is no mention that prior to the evacuation chamber or treatment tunnel described by the Inglis et al. reference that the



meat can be blended in carbon dioxide. Blending in carbon dioxide provides advantages not apparent from any of the references. As practiced by Groves et al., blending meat in air exposes large quantities of the surface area of meat to air that may be absorbed into the meat thereby causing the early stages of rancidity to begin. In direct contrast, the invention defined by Claim 353 blends the streams of meat in a vessel with carbon dioxide, thus reducing or eliminating the exposure of meat to air during the highly turbulent process of blending. Furthermore, after the blending, the blended stream is transferred into a barrier package substantially impermeable to oxygen. There is no suggestion or motivation to carry out blending in carbon dioxide because Inglis et al. describe only treatment in an evacuation chamber or flow wrapping equipment, neither of which is suited for the purpose of blending meat. Therefore, the invention defined by Claim 353 advantageously leads to a longer shelf life of packaged meat.

Because Claims 354-356, 358, 359, 443, 444, 471 and 477 depend directly or indirectly from Claim 353, these claims are allowable, if not also for the fact that the Groves et al. reference does not teach, describe or remotely suggest, either alone or in combination with the Inglis et al. and Goldsmith references, the invention defined by Claims 353-356, 358, 359, 443, 444, 471 and 477.

Claim 360 recites:

360. A method for processing meat primals, comprising:  
obtaining meat primals having at least fat and water;  
reducing the bacteria on the meat primals;  
transferring the meat primals to containers;  
removing oxygen from the containers;  
sealing the containers;  
storing the containers;

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removing the primals from the containers and cutting the primals to provide primal portions;

placing the primal portions into barrier packages substantially impermeable to oxygen;

introducing a gas into the packages, wherein the majority of said gas comprises carbon dioxide;

sealing the packages; and

testing the meat for the presence of bacteria.

Neither the Groves et al., Inglis et al., nor Goldsmith references describe, teach or remotely suggest or motivate one to modify and/or combine any of the references to produce the embodiment of the invention that is defined by Claim 360. The Examiner has omitted to state where any of the references teach, describe or remotely suggest the treatment of primals. Specifically, as recited in Claim 360, the Examiner has not shown where the references teach or describe:

obtaining meat primals having at least fat and water;

reducing the bacteria on the meat primals;

transferring the meat primals to containers;

removing oxygen from the containers;

sealing the containers;

storing the containers;

removing the primals from the containers and cutting the primals to provide primal portions;

placing the primal portions into barrier packages substantially impermeable to oxygen;

introducing a gas into the packages, wherein the majority of said gas comprises carbon dioxide;

sealing the packages; and

testing the meat for the presence of bacteria.

Accordingly, the withdrawal of the rejection of Claim 360 is respectfully requested. Because Claims 463 and 472 are dependent directly or indirectly from Claim 360, these claims are allowable if not also for the fact that the Groves et al. reference, either alone or in combination with the Inglis et al. and Goldsmith references does not teach, describe or remotely suggest the invention defined by Claims 360, 463 and 472.

Claim 366 recites:

grinding meat to provide ground meat;

exposing the meat to a gas before or during grinding, wherein said gas inhibits bacterial growth before or during grinding, and wherein the majority of said gas comprises carbon dioxide;

transferring the ground meat to a web of barrier material substantially impermeable to oxygen;

sealing the web to enclose the ground meat in an atmosphere having an oxygen level lower than the oxygen level of air;

testing the ground meat for the presence of bacteria; and

applying indicia to the web, wherein the indicia include information related to the ground meat.

The Examiner is asked to note the recitation of exposing the meat to carbon dioxide before or during grinding. If there is nothing in the references to suggest or motivate one to blend meat in carbon dioxide, as has been discussed above in association with Claims 438 and 439, there is certainly nothing to suggest or motivate one to grind meat in carbon dioxide because grinding is taking place prior to blending. Grinding, like blending, as practiced by Groves takes place in air that causes detrimental effects that are not cured by the after-the-fact treatment methods described by the Inglis et al. reference. The claimed embodiment of the invention advantageously grinds meat in carbon dioxide, greatly reducing absorption of oxygen

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in favor of carbon dioxide that leads to outgassing and greatly diminishes any further absorption of oxygen. The Inglis et al. reference describes an evacuation chamber or flow wrapping equipment for treatment, neither of which is suitable for grinding meat. Any hypothetical combination of the Groves et al. reference with the Inglis et al. reference would not provide the advantages in the claimed embodiment of the invention defined by Claim 366.

Accordingly, for at least the reasons described above, the Groves et al. reference, either alone or in combination with the Inglis et al. and Goldsmith references, does not teach, describe or remotely suggest the embodiment of the invention defined by Claim 366; therefore, applicant respectfully requests withdrawal of the rejection of Claim 366.

Because Claims 367, 368, 427, 440, 451, 452, 464, 473 and 479 are dependent directly or indirectly from Claim 366, therefore, these claims are allowable, if not also for the fact that the Groves et al. reference, either alone or in combination with the Inglis et al. and Goldsmith references, does not teach, describe or remotely suggest the embodiments of the invention defined by Claims 367, 368, 427, 440, 451, 452, 464, 473 and 479.

Claim 369 recites:

harvesting meat portions from an animal, . . . treating the meat with an agent including water that inhibits the growth of bacteria; grouping the meat into classifications [and] combining quantities of meat from one or more classifications. . . .

The Examiner will note that Claim 369 recites treating meat with an agent and water. The treatment of meat with an agent and water has been discussed above in association with Claim 430, and neither the Groves et al. reference, either alone or in combination with the Inglis et al. and Goldsmith references, describe this step. The Examiner will further notice that there is a step reciting grouping the meat into classifications, thereafter followed by combining quantities of meat from one or more classifications. In direct contrast to Claim 369, the Groves et al. reference does not remotely teach or suggest grouping into classifications, and thereafter

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combining quantities of meat from one or more classifications. Neither Inglis et al. nor Goldsmith provides the requisite motivation or suggestion to produce the embodiment of Claim 369.

Accordingly, for at least the reasons described above, the Groves et al. reference, either alone or in combination with the Inglis et al. and Goldsmith references, does not teach, describe or remotely suggest the embodiment of the invention defined by Claim 369; therefore, applicant respectfully requests withdrawal of the rejection of Claim 369.

Because Claims 370-373, 441, 447, 448, 462 and 480 are dependent directly or indirectly from Claim 369, therefore, these claims are allowable, if not also for the fact that the Groves et al. reference, either alone or in combination with the Inglis et al. and Goldsmith references, does not teach, describe or remotely suggest the embodiment of the invention defined by Claims 370-373, 441, 447, 448, 462, 474 and 480.

Claim 428 recites:

harvesting meat comprised of several components, including at least fat, muscle, and water, wherein the amount of at least one component is determined; grouping the meat into classifications; [and] combining quantities of meat from one or more classifications to provide a meat product with a combined quantity of at least one component...

As discussed above, the Groves et al., Inglis et al. and Goldsmith references do not provide any suggestion or motivation for grouping into classifications, and thereafter combining the meat from one or more classifications.

Accordingly, for at least the reasons described above, the Groves et al. reference, either alone or in combination with the Inglis et al. and Goldsmith references, does not teach, describe or remotely suggest the embodiment of the invention defined by Claim 428; therefore, applicant respectfully requests withdrawal of the rejection of Claim 428.

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Because Claims 442, 449, 450, 466, 468 and 475 are dependent directly or indirectly from Claim 428, therefore, these claims are allowable, if not also for the fact that the Groves et al. reference, either alone or in combination with the Inglis et al. and Goldsmith references, does not teach, describe or remotely suggest the embodiment of the invention defined by Claims 442, 449, 450, 466, 468 and 475.

Claim 430 recites in part:

combining a first quantity of meat with a second quantity of meat, wherein at least one of said quantities of meat has been treated with carbon dioxide and a predetermined amount of water that replaces water that evaporates from the meat during processing.

The rejection of Claim 430 has been discussed in a previous section, and Claim 430 is believed to be allowable.

Accordingly, for at least the reasons described above, the Groves et al. reference, either alone or in combination with the Inglis et al. and Goldsmith references, does not teach, describe or remotely suggest the embodiment of the invention defined by Claim 430; therefore, applicant respectfully requests withdrawal of the rejection of Claim 430.

Because Claims 433-435, 437, 455 and 456 are dependent directly or indirectly from Claim 430, therefore, these claims are allowable, if not also for the fact that the Groves et al. reference, either alone or in combination with the Inglis et al. and Goldsmith references, does not teach, describe or remotely suggest the embodiment of the invention defined by Claims 433-435, 437, 455 and 456.

While there may be other reasons why Claims 353-356, 358-360, 366-373, 427, 428, 433-435, 437, 440-444, 447-452, 455, 456, 462, 464, 466, 468, 471-475 and 479-480 are not obvious for at least the reasons discussed above, these claims are not obvious in view of the Groves et al. reference, either alone or in combination with Inglis et al. reference, and further in view of the Goldsmith reference. Accordingly, applicant requests the withdrawal of the rejection

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of Claims 353-356, 358-360, 366-373, 427, 428, 433-435, 437, 440-444, 447-452, 455, 456, 462, 464, 466, 468, 471-475, and 479-480.

The Rejection of Claim 357 Under 35 U.S.C. § 103(a)

Claim 357 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Groves et al. in view of Inglis et al. and Goldsmith, and further in view of *The Wiley Encyclopedia of Packaging Technology*. Applicant respectfully traverses the rejection.

Claim 357 is dependent from Claim 353, which is allowable. The reasons why there is no suggestion or motivation to combine or modify the cited and applied references are extensively discussed above. *The Wiley Encyclopedia* does not supply the missing motivation, suggestion or the elements that are lacking in the Groves et al., Inglis et al., and Goldsmith references. Accordingly, applicant respectfully requests the withdrawal of the rejection of Claim 357.

The Rejection of Claims 453 and 454 Under 35 U.S.C. § 103(a)

Claims 453 and 454 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Wiley*. Applicant respectfully traverses the rejection.

Claims 453 and 454 are dependent from Claim 422. The reasons why Claim 422 is allowable over *Wiley* are discussed above. The *Wiley* reference does not describe, teach, or remotely suggest or motivate one to produce the invention defined by Claims 453 and 454. Accordingly, the withdrawal of the rejection of Claims 453 and 454 is respectfully requested.

The Rejection of Claims 360-365, 424, 445-446, 463 and 478 Under 35 U.S.C. § 103(a)

Claims 360-365, 424, 445-446, 463 and 478 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *The Wiley Encyclopedia of Packaging Technology*, 2d ed., in view of Goldsmith.

The invention defined by Claim 360 recites removing the primals from the containers and cutting the primals to provide primal portions; placing the primal portions into barrier packages substantially impermeable to oxygen; introducing a gas into the packages, wherein the majority of said gas comprises carbon dioxide.

The Examiner states that the *Wiley* reference describes "removing the primals and cutting them into portions, placing them in barrier packages, introducing gas into the package, sealing the package, a high oxygen environment, and a low oxygen environment." (Page 654, first column.)

In fact, the *Wiley* reference describes:

When vacuum packaged meats reach the store they are unpacked, cut into appropriate consumer units and placed in polystyrene foam trays or PVC trays and overwrapped with oxygen permeable films. The ingress of oxygen causes the deoxymyoglobin to bloom into red oxymyoglobin.

In direct contrast to the *Wiley* reference, the invention defined by Claim 360 recites that the primal portions are placed into barrier packages substantially impermeable to oxygen, whereas the *Wiley* reference describes that the cut portions are placed in oxygen permeable films. Accordingly, the *Wiley* reference does not teach, describe, or remotely suggest the embodiment of the invention defined by Claim 360. Because Claims 361-365, 424, 445, 446, 463 and 478 depend directly or indirectly from Claim 360, these claims are allowable, if not also for the fact that the *Wiley* reference does not describe, teach or remotely suggest the invention defined by Claims 361-365, 424, 445, 446, 463 and 478.

The Rejection of Claims 429, 436, 467 and 476 Under 35 U.S.C. § 103(a)

Claims 429, 436, 467 and 476 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Groves et al. in view of Inglis et al. and Goldsmith, and further in view of Shaklai (U.S. Patent No. 6,270,829).

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Claims 429, 467 and 476 are dependent from Claim 428. The Groves et al., Inglis et al., and Goldsmith references do not teach, describe, or remotely suggest the invention defined by Claim 428, Shaklai does not supply the missing requirements. Accordingly, Claims 429, 467 and 476 are allowable.

Claim 436 is dependent from Claim 430. Accordingly, Claim 436 is allowable.

New Claims 484, 485

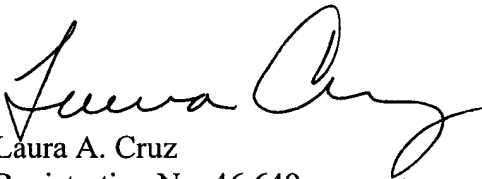
New Claims 484 and 485 are submitted to be allowable over the references of record.

CONCLUSION

In view of the foregoing amendments and remarks, applicant submits that Claims 353-373 and 422-485 are allowable. Early consideration and a Notice of Allowance are requested. In the alternative, applicants restate their request for an interview to further the prosecution of the present application. If the Examiner has any further questions or comments, the Examiner is invited to contact the applicants' attorney at the number provided below.

Respectfully submitted,

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Laura A. Cruz  
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